



ORIGINAL

EX PARTE OR LATE FILED
Federal Communications Commission
Washington, D.C. 20554

November 6, 2000

RECEIVED

In Reply Refer To:
2000F/JS
0006546

NOV 10 2000

Honorable Elton Gallegly
U.S. House of Representatives
300 Esplanade Drive
Suite 1800
Oxnard, CA 93030-262

Federal Communications Commission
Office of Secretary

Dear Congressman Gallegly:

Thank you for your letter on behalf of Daniel R. Ch'en, President, Microwave Monolithics Incorporated, who is urging the Commission to take expedited action in deciding WT Docket No. 99-366. This *Notice of Proposed Rule Making (Notice)* proposes to authorize the use of the frequency 406.025 MHz for Personal Locator Beacons (PLBs) used by individuals in remote areas. This *Notice* was initiated in response to a June 3, 1993, National Oceanic and Atmospheric Administration (NOAA) petition for rule making requesting the authorization of frequency 406.025 MHz for PLBs.

Mr. Ch'en notes that frequency 406.025 MHz is currently authorized for emergency position indicating radio beacons (EPIRBs) for marine use, and emergency locator transmitters (ELTs) for aviation use. Action by the Commission on NOAA's request was delayed pending the completion of technical standards for 406 MHz PLBs by the Radio Technical Commission for Maritime services. These technical standards were finalized on February 10, 1997. On January 18, 2000, the Commission released its *Notice* seeking comment on the use of frequency 406.025 MHz for PLBs. Comments and Reply Comments were due on February 24, 2000 and March 10, 2000, respectively.

Since the Reply Comment date, the Commission staff has been evaluating the record in this proceeding. Both Mr. Ch'en letter and this response shall be included in the record of the proceeding, as the Commission strives to release final rules in this proceeding before the end of the first Quarter of 2001.

I trust that this information is responsive to your inquiry.

Sincerely,

Ramona E. Melson
Deputy Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

No. of Copies rec'd 0
List ASODE

ELTON GALLEGLY
23rd DISTRICT, CALIFORNIA

www.house.gov/gallegly/
2427 RAYBURN BUILDING
WASHINGTON, DC 20515-0523
(202) 225-5811
300 ESPLANADE DRIVE
SUITE 1800
OXNARD, CA 93030-1262
(805) 485-2300
(800) 423-0023
October 9, 2000

Congress of the United States
House of Representatives
Washington, DC 20515-0523

COMMITTEES:
INTERNATIONAL RELATIONS
SUBCOMMITTEE:
WESTERN HEMISPHERE AFFAIRS
CHAIRMAN
RESOURCES
SUBCOMMITTEE:
NATIONAL PARKS AND PUBLIC LANDS
JUDICIARY
SUBCOMMITTEES:
IMMIGRATION AND CLAIMS
COURTS AND INTELLECTUAL PROPERTY

Federal Communications Commission
ATTN: Congressional Liaison
1919 M Street
Washington, DC 20554-0001

Dear Sir/Madam:

Attached, is a letter from my constituent Daniel Ch'en, President of Microwave Monolithics Incorporated.

Your consideration to his correspondence is very much appreciated. Please reply to my Oxnard District Office.

Sincerely,

ELTON GALLEGLY
Member of Congress

Tina Cobb

by Tina Cobb
Congressional Aide
Oxnard District Office

WTB
Public Safety
6546

Oct 16 6 44 PM '00



MICROWAVE MONOLITHICS INCORPORATED

2283 Ward Avenue, Simi Valley, California 93065
(805)584-MMIC • (805)584-6642 • FAX (805)584-9594

October 2, 2000

The Honorable Elton Gallegly
United States House of Representatives
Washington, DC

Dear Mr. Gallegly:

This letter is to alert you to a situation which is costing many U.S. citizens their lives each year that could be corrected by timely Government action. The remedy will not lead to additional Government expenditures, and will not place additional burdens on any private industries or citizens.

The COSPAS/SARSAT system is a world-wide emergency notification system, largely funded and operated by the U.S., which has been instrumental in saving over 10,000 lives world-wide (over 4,000 lives in the U.S.). U.S. specifications for several varieties of COSPAS/SARSAT beacons, most notably the "EPIRB" for marine use and ELT for aviation use, have been issued by the U.S. over the years. However, the pocket-sized PLB specification has been working its way through the overloaded FCC rule issuing process for over seven (7) years (See attached FCC document 99-414) despite the fact that most of the world has already approved PLB specifications long ago. Microwave Monolithics Incorporated (MMInc.), with initial support from NASA, has developed the world's smallest PLB, the MicroPLB, which provides immediate/"real time" notification of distress, including identification and accurate location, to rescue personnel whenever and wherever in the world the pocket sized MicroPLB is activated. The MicroPLB has passed all certification tests in a U.S. government test laboratory (Ft. Huachuca, AZ) and was certified by the international COSPAS/SARSAT secretariat well over a year ago.

MMInc. is thus in the awkward position of manufacturing the MicroPLB in California and being able to sell this lifesaving device anywhere in the world except the U.S. This is an extremely unfortunate state of affairs since the operating frequency has long ago been set aside by the entire world (including the U.S.) for this purpose, and all parameters related to RF transmissions have been unanimously agreed to by the COSPAS/SARSAT consortium, of which the U.S. is a founding member. Government agencies within the U.S., which are not limited by the lack of FCC specifications, have purchased MicroPLBs and are unanimously pleased with them. However, ordinary citizens call MMInc. daily asking how to purchase these lifesaving devices, only to be told that PLBs are not currently available within the U.S. As a result, many lives which could be saved by this advanced technology are undoubtedly lost. It is possible that the FCC has not realized the full life and death importance of rapidly issuing PLB specifications for the U.S., therefore your assistance is sought to help emphasize the importance of placing these specifications on the FCC "fast track" timetable.

If successful, your efforts will quickly help save many lives, while simultaneously creating additional "high tech" jobs in southern California. We therefore request that your high office consider taking a pro-active roll to insure that this cost effective, high impact, search and rescue satellite emergency notification system becomes available to all U.S. citizens in a timely manner.

Yours very truly,

Daniel R. Ch'en
President

Oct 04, 00 16:51 No. 002 P. 02

TEL: 1-805-584-9594

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

Amendment of Part 95 of the Commission's)
Rules to authorize the use of 406.025 MHz)
for Personal Locator Beacons (PLB))

WT Docket No. 99-366
RM-8267

NOTICE OF PROPOSED RULE MAKING

Adopted: December 28, 1999

Released: January 18, 2000

Comments Due: February 24, 2000

Reply Comments Due: March 10, 2000

By the Commission:

I. INTRODUCTION

1. On June 3, 1993, the National Oceanic and Atmospheric Administration of the United States Department of Commerce (NOAA) filed a petition for rulemaking requesting that the Commission amend its Rules to authorize the use of the frequency 406.025 MHz for personal locator beacons (406 MHz PLBs).¹ The NOAA seeks this change in the Commission's Rules to provide individuals in remote areas a means to alert others of an emergency situation and help search and rescue (SAR) personnel locate those in distress. The Region 20 Public Safety Planning Committee (Region 20) and Orbital Communications Corporation (ORBCOMM) filed comments supporting the use of 406.025 MHz for PLBs.² For the reasons discussed herein, we propose to establish a new Subpart H - Personal Locator Beacons under Part 95 of the Commission's Rules to permit the use of 406.025 MHz for PLBs.

II. BACKGROUND

2. Emergency position indicating radiobeacon stations are used to send distress signals that alert SAR personnel. In the United States such beacons are named emergency locator transmitters (ELTs) when carried on aircraft and emergency position indicating radio beacons (EPIRBs) when carried on ships. ELTs and EPIRBs transmit distress signals on 121.500 MHz, 243.000 MHz and 406.025 MHz to the COSPAS/SARSAT³ satellite system. EPIRBs and ELTs designed to transmit distress signals on 121.500 MHz and 243.000 MHz transmit continuous signals that are amplitude modulated with an audio swept tone.⁴ These stations also provide distress alerting and guidance (homing) assistance in emergency

¹ The Commission gave public notice of the filing of NOAA's petition for rule making and assigned it RM-8267. See Public Notice No. 1945 (June 15, 1993).

² See Region 20 Comments at 6; ORBCOMM Comments at 1.

³ COSPAS is an acronym for a Russian phrase meaning space system for search and distress vessels. SARSAT stands for search and rescue satellite-aided tracking.

⁴ An audio swept tone assists SAR personnel in locating distress beacons by providing a distinctive

situations. EPIRBs and ELTs designed to transmit distress signals on 406.025 MHz transmit short, digital signals to provide distress alerting in emergencies, and use 121.500 MHz to provide homing. The 406.025 MHz digital signal contains information on the type of emergency, the country and identification code of the beacon in distress, and other information to facilitate SAR operations. Further, 406 MHz distress signals can be stored on-board COSPAS/SARSAT satellites and then later retransmitted to a ground station thus eliminating the "blind spots"⁵ that exist with the older 121.500 MHz and 243.000 MHz EPIRBs and ELTs.

III. DISCUSSION

3. The State of Alaska has held a developmental license to use Canadian-approved PLBs in Alaska since 1995.⁶ In addition to the authorization from the Commission, the State of Alaska has a Memorandum of Understanding with the NOAA, the United States Air Force Rescue Coordination Center, the United States Coast Guard's North Pacific Rescue Coordination Center, and the Alaska State Troopers, all of which participate in the PLB program. State and Federal agencies, as well as private businesses and individuals utilize the developmental program.⁷ During the 1997 calendar year the developmental program resulted in 28 activations by PLB users, with only 2 "false" activations.⁸ It is believed that this developmental program has contributed to the efficient, timely and safe usage of SAR resources in Alaska.⁹ It is further believed that the statewide support of the PLB program has been a key to its success.¹⁰

4. In response to NOAA's petition, the Interagency Committee on Search and Rescue (ICSAR) formed a PLB Working Group to develop recommendations for PLB use generally in the United States. On September 21, 1995, the Working Group concluded that the federal SAR community should support implementation of 406 MHz PLBs and invited the Radio Technical Commission for Maritime (RTCM) Services to finalize the technical standards.¹¹ On February 10, 1997, the RTCM issued final 406 MHz PLB technical standards.¹² Currently, there is no PLB equipment that is type

aural signal. See 80.1053(7).

⁵ "Blind spots" in the current 121.5/243.0 MHz satellite system are a result of the satellite not being able to see or provide radio coverage to every location on earth continuously.

⁶ Letter to Robert A. Larson, State of Alaska from Walter G. Boswell, Chief, Special Service Branch, dated March 7, 1995.

⁷ Letter to Michael J. Regiec, Acting Chief, Licensing and Technical Analysis Branch from Colonel Glenn Godfrey, Director, Alaska State Troopers, dated September 10, 1997.

⁸ Letter to Mary M. Shultz, Chief, Licensing and Technical Analysis Branch from Robert A. Larson, Chairman, Alaska Search and Rescue PLB Program, dated July 16, 1998. "False" activations are inadvertent or intentional beacon activations in non-distress situations.

⁹ *Id.* at 1.

¹⁰ ICSAR Personal Locator Beacon Working Group Report to the ICSAR Executive Committee, dated September 21, 1995 at 1.

¹¹ *Id.* at 2.

¹² See RTCM Recommended Standards for 406 MHz Satellite Personal Locator Beacons (PLBs),

accepted in the United States. On February 28, 1996, the ICSAR filed a letter supporting NOAA's petition and made several recommendations for implementation of 406 MHz PLBs.¹³

Frequency

5. In the 1983 Mobile World Administrative Radio Conference for the Mobile Services (MOB-83), the frequency 406.025 MHz was allocated for the exclusive use of low-power, earth-to-space emergency position indicating radiobeacons.¹⁴ On August 24, 1988, the Commission adopted rules authorizing the use of this frequency for EPIRBs in the Maritime Radio Services.¹⁵ On May 3, 1993, the Commission also adopted rules authorizing the use of this frequency for ELTs in the Aviation Radio Services.¹⁶ As an integral part of these rule amendments, the Commission adopted technical standards for such radiobeacons.¹⁷ As indicated above, the Commission's experience to date with EPIRBs and ELTs that operate on this frequency has been favorable. Further, NOAA and the United States Coast Guard (Coast Guard) believe, based on experience gained from the State of Alaska developmental program, that 406 MHz distress alerting would benefit individual users in remote areas.¹⁸ Accordingly, we propose to amend our Rules, as reflected in Appendix B, to authorize the use of 406.025 MHz for PLBs.

Regulatory Structure

6. Rule Part. Currently, radiobeacons authorized to operate on 406.025 MHz are regulated in the maritime radio service rules and the aviation radio service rules under Parts 80 and 87 of the Commission's Rules, 47 C.F.R. Parts 80 and 87, respectively.¹⁹ In these services, radiobeacons are associated with particular ships or aircraft and may be used to alert SAR resources when the ship or aircraft is in distress, and for no other purpose. However, the proposed new service using 406 MHz PLBs is intended to satisfy the individual distress alerting needs of the general public. Region 20 recommends that, to provide service to a broad range of users the Commission regulate the use of PLBs under the Personal Radio Service rules, Part 95 of the Commission's Rules, 47 C.F.R. Part 95.²⁰ We

Version 1.0, RTCM Paper 5-97/SC110-STD, dated February 10, 1997.

¹³ Letter to Mr. Jim Shaffer, Federal Communications Commission from Chairman, Interagency Committee on Search and Rescue, dated February 28, 1996 (ICSAR Letter).

¹⁴ See International Radio Regulation No. 2997A.

¹⁵ See Amendment of the Maritime Services Rules To Allow Ships To Use 406.025 MHz Emergency Position Radiobeacons for Distress Alerting and Search and Rescue Functions, PR Docket No. 86-424, Report and Order, 3 FCC Rcd 5406 (1988).

¹⁶ See Amendment of the Aviation Rules (Part 87) to Authorize the Use of the Frequency 406.025 MHz for Emergency Locator Transmitters (ELTs), PR Docket No. 92-125, Report and Order, 8 FCC Rcd 3185 (1992).

¹⁷ 47 C.F.R. §§ 80.1061 and 87.199.

¹⁸ NOAA Petition for Rulemaking at 1; ICSAR letter at 2.

¹⁹ See 47 C.F.R. §§ 80.15 and 87.195.

²⁰ Region 20 Comments at 4.

agree and therefore we propose to establish a new Subpart H - Personal Locator Beacons (PLB) under Part 95 of the Commission Rules.

7. License Requirement. The ICSAR recommends that access to 406 MHz PLBs should be restricted.²¹ It notes that there are individual states, such as Alaska, which desire and are willing to accept responsibility for managing a 406 MHz PLB program.²² It therefore recommends that individual state authorities be allowed to choose to be authorized by the Commission as PLB program managers. Under such an approach, a state would manage the use of 406 MHz PLBs within its geographical boundaries and be responsible for designating a single point of contact for receiving and responding to 406 MHz PLB distress alerts relayed by NOAA. States and their points of contact for NOAA would enter into Memorandum of Understanding with NOAA, the United States Air Force Rescue Coordination Center, and the appropriate United States Coast Guard's Rescue Coordination Center for coordinating response to the distress alert. For those states choosing not to be authorized by the Commission or to designate of a single point of contact for NOAA, the ICSAR recommends that land-based distress alerts, including new 406 MHz PLB alerts, continue to be handled under current procedures. The current procedures for alerts relayed by NOAA are that with prior coordination and mutual agreement, land-based alerts are relayed by the United States Air Force Rescue Coordination Center to points of contact designated by the state.²³ We seek comment on this approach.

8. Because of the proposed broad eligibility and operational provisions for PLBs, we recognize that there are millions of potential users. We believe that individually licensing each one would be unnecessarily burdensome on the Commission without concomitant public interest benefit. Notably, on October 18, 1996, the Commission decided to license EPIRBs and ELTs by rule, which eliminated individual licenses.²⁴ We note, however, that the current ELT/EPIRB system has been designed specifically to handle aircraft and ships in distress rather than to accommodate the general public. We are concerned that the addition of a large number of users, especially users unfamiliar with the use of radio, could hamper the present system. For these reasons, we agree with the ICSAR that individual 406 MHz PLBs should be authorized by rule.²⁵ We also agree with the ICSAR that a state-managed PLB program could provide for more effective, efficient and timely management of 406 MHz PLB alerts. Therefore, we seek comment on the following issues:

- (a) Whether PLB management by individual states will foster sufficiently effective SAR service?
- (b) Should individual states be granted an authorization, and if so, whether states have the policy and technical expertise to implement the ICSAR recommended state authorization plan? We are particularly interested in comment from individual states regarding this matter because no state has requested state licensing.
- (c) If individual states are licensed, what should be the process and procedures by which such

²¹ ICSAR Letter at 1.

²² *Id.* at 2.

²³ *Id.* at 1.

²⁴ See Amendment of the Parts 80 and 87 of the Commission's Rules to Permit Operation of Certain Domestic Ship and Aircraft Radio Stations Without Individual Licenses, WT Docket No. 96-82, Report and Order, 11 FCC Rcd 14849 (1996).

²⁵ ICSAR Letter at 1.

licenses are granted? Specifically, should the authorizations be granted to the Governor, or an agency/organization designated by the Governor? We also seek comment on whether any relevant differences in structures of various state governments would affect the licensing of states.

(d) Other flexible licensing approaches that might promote the efficient and controlled use of 406 MHz PLBs.

Mandatory Registration

9. Currently, NOAA administers and maintains a database for 406 MHz EPIRBs and ELTs that contains more than 50,000 unique identification codes and registration information for these beacons. We note that registration by EPIRB and ELT beacon owners in this database currently is mandatory²⁶, as well as strongly encouraged through education programs by the Coast Guard and NOAA. Manufacturers are required, by rule,²⁷ to program into each EPIRB or ELT a unique code and provide an equipment plate or label on each 406 MHz EPIRB or ELT displaying the unique NOAA identification code and registration instructions. Manufacturers must also include a pre-paid, pre-addressed post card soliciting the owner's name and address, telephone number, the type of ship or aircraft and the unique identification code for registration in NOAA's database.²⁸ It is our understanding that when the distress signal is relayed to a rescue coordination center the registration information is available to SAR personnel. With respect to registration with NOAA, we propose to treat 406 MHz PLBs in the same manner that we treat 406 MHz EPIRBs or ELTs. We propose to require manufacturers to program each 406 MHz PLB with a unique code and to provide on each 406 MHz PLB a plate or label containing the registration instructions. Additionally, we propose to require manufacturers to include with each marketed 406 MHz PLB a pre-addressed post card soliciting the name, address, telephone number, and identification code of the owner for registration in NOAA's database. We invite comment on these proposals and any alternatives thereto.

Equipment Authorization

10. We propose that 406 MHz PLBs be required to comply with the technical standards in the Radio Technical Commission for Maritime (RTCM) Service document RTCM Recommended Standards for 406 MHz Satellite Personal Locator Beacons (PLBs).²⁹ Accordingly, we propose to incorporate the RTCM technical standards by reference in Part 95 of our Rules.³⁰ We seek comment on this proposal. We also seek comment on the following issues:

(a) Are there applicable international requirements not covered in RTCM's technical standards?

²⁶ See 47 C.F.R. §§ 80.1061(f) for EPIRBs and 87.199(f) for ELTs.

²⁷ See 47 C.F.R. §§ 80.1061(e) and 87.199(e).

²⁸ *id.*

²⁹ Version 1.0, RTCM Paper 5-97/SC110-STD.

³⁰ The Technical Standards are available in the Commission's docket file in this proceeding or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, Suite 140, Washington, D.C. 20037, telephone (202) 857-3800. The Commission must obtain authorization from the Director of the Federal Register prior to incorporating by reference the technical standards in Part 95 of our rules. See 1 C.F.R. Part 51.

(b) Should PLBs capable of operating on 406.025 MHz be certified as meeting COSPAS/SARSAT standards by an independent laboratory as is required for 406.025 MHz EPIRBs or is the Commission's certification process sufficient?

IV. CONCLUSION

11. The 406 MHz PLB is primarily intended to provide a distress and alerting capacity for use by the general public in life threatening situations in a remote environment after all other means of notifying SAR responders (e.g., telephone, radio) have been exhausted. Accordingly, we have proposed to establish a new Subpart H- Personal Locator Beacons (PLB) under Part 95 of the Commission Rules to permit the use of 406.025 MHz for personal locator beacons. Further, we have proposed to license individual 406 MHz PLBs by rule and require registration of 406 MHz PLB with NOAA. We believe that these proposals further the public interest because they are aimed at facilitating the use of radio spectrum to increase safety of the general public.

V. PROCEDURAL MATTERS

12. *Ex Parte Presentations.* This *Notice of Proposed Rule Making* is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in Commission Rules.³¹

13. *Pleading Dates.* Pursuant to Sections 1.415 and 1.419 of the Commission's rules,³² interested parties may file comments on before February 24, 2000, and reply comments on or March 10, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).

14. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

15. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-B204, Washington, D.C. 20554.

16. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word97 or

³¹ See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206.

³² See 47 C.F.R. §§ 1.415, 1.419

compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

17. *Paperwork Reduction Analysis.* The *Notice of Proposed Rule Making* contains proposed information collections and as part of its continuing effort to reduce paperwork burdens, the Commission invites the general public to take this opportunity to comment on the information collections as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and Agency comments on the information collections contained in the *Notice of Proposed Rule Making* are due 60 days after publication of the summary of the *Notice of Proposed Rule Making* in the Federal Register. These comments should be submitted to Judy Boley, Federal Communications Commission, Room 1C804, 445 12th Street, Washington, D.C. 20554, or via the Internet to jboley@fcc.gov. Furthermore, a copy of any such comments should be submitted to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, D.C. 20503 or via the Internet at fain_t@al.eop.gov.

Initial Regulatory Flexibility Act Analyses

18. As required by the Regulatory Flexibility Act,³³ the Commission has prepared a an Initial Regulatory Flexibility Analysis of the possible impact on small entities of the proposals suggested in the *Notice of Proposed Rule Making*. See Appendix A. Written public comments are requested on the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Notice but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Reference Information Center, will send a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

VI. ORDERING CLAUSES

19. Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i), 4(j), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 403.

20. NOTICE IS HEREBY GIVEN and COMMENT IS SOUGHT on the proposed regulatory changes described in the *Notice of Proposed Rule Making*, as set forth in Appendix B.

³³

See 5 U.S.C. § 603

21. IT IS FURTHER ORDERED that the Commission's Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

22. For further information, contact James Shaffer of the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418-0680 or via E-mail at "mayday@fcc.gov".

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Notice of Proposed Rule Making

As required by the Regulatory Flexibility Act (RFA),³⁴ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the present, *Notice of Proposed Rule Making (Notice)*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* as provided above in the Procedural Matters section of this *Notice of Proposed Rule Making*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. § 603(a). In addition, the *Notice* and IRFA (or summaries thereof) will be published in the Federal Register. See *id.*

1. Need for, and Objectives of, the Proposed Rules

1. In the *Notice* herein, we are proposing to authorize the use of the frequency 406.025 MHz for personal locator beacons (PLBs) to provide individuals in remote areas a means to alert others of an emergency situation and help search and rescue personnel locate those in distress.

2. Legal Basis

2. The proposed action is authorized under Sections 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r).

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

3. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. § 601(6). The RFA, 5 U.S.C. § 601(3), generally defines the term "small business" as having the same meaning as "small business concern" under the Small Business Act, 15 U.S.C. § 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

4. The rules proposed in this *Notice of Proposed Rule Making* will affect small businesses that manufacture, design, import, sell, or use radiobeacon equipment designed for distress alerting and location. PLBs will be used to provide a distress and alerting capacity for use by the general public in a life threatening condition in a remote environment after all other means of notifying search and rescue responders have been used. These beacons will be manufactured, designed, imported and sold by companies of all sizes operating in the U.S. We concluded that these small businesses are classified in Communications Equipment, N.E.C., (Standard Identification Code 3669) as entities employing less than 750 employees as defined in 13 CFR §121.201. The size data provided by the SBA shows that 469 firms out of 498 firms in the Communications Equipment, NEC classification have less than 750 employees but

³⁴ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

did not enable us to make a meaningful estimate of the number of potential manufacturers which are small businesses.³⁵ Therefore, in this IRFA, we seek comment on the number of small businesses which could be impacted by the proposed rule changes.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

5. The *Notice* proposes a number of rules that will entail reporting, recordkeeping, and/or third party consultation. However, the Commission believes that these requirements are the minimum needed. The *Notice* asks for comment whether to require mandatory registration of PLB radiobeacons and on alternative licensing methods for PLBs. The licensing methods under consideration in the *Notice* include the possibility of imposing recordkeeping and reporting requirements on applicants for PLB licenses. These entities will be required to submit applications for spectrum licenses on FCC Form 601.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

6. We have reduced economic burdens wherever possible. This item seeks comment on whether we should license the PLBs directly to each state or in some other manner to meet concerns for controlled use of the radiobeacons, and contains proposals for meeting technical standards. This approach will allow the states to help manage its terrestrial search and rescue resources and assure that these radiobeacons will operate properly thus enhancing protection of life and property.

7. To minimize any negative impact resulting from the implementation of licensing, we have offered the option of utilizing the existing procedures which is, with prior coordination and mutual agreement, land-based alerts being relayed by the United States Air Force Rescue Coordination Center to a point of contact designated by the state.

8. We seek comments on these tentative conclusions.

6. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

9. None.

³⁵ U.S. Small Business Administration 1992 Economic Census Industry and Enterprise Report, Table 1D, SIC Code 3669, (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

PROPOSED RULE

Part 95 of Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 95 - PERSONAL RADIO SERVICES

1. The authority citation for Part 95 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. New Subpart H is added to read as follows:

Subpart H - Personal Locator Beacons (PLB).

GENERAL PROVISIONS

§ 95.1201 Basis and purpose.

§ 95.1203 Frequency

§ 95.1205 Special requirements for 406.025 MHz PLBs.

Subpart G Personal Locator Beacons (PLB).

§ 95.1201 Basis and purpose.

The rules in this subpart are intended to provide individuals in remote areas a means to alert others of an emergency situation and to aid search and rescue personnel locate those in distress.

§ 95.1203 Frequency

The frequency 406.025 MHz is an emergency and distress frequency available for use by Personal Locator Beacons (PLBs). Personal Locator Beacons that transmit on the frequency 406.025 MHz must use G1D emission. Use of this frequency must be limited to transmission of distress and safety communications.

§ 95.1205 Special requirements for 406.025 MHz PLBs.

(a) All 406.025 MHz PLBs must meet all the technical and performance standards contained in the Radio Technical Commission for Maritime (RTCM) Service document "RTCM Recommended Standards for 406 MHz Satellite Personal Locator Beacons (PLBs), Version 1.0, RTCM Paper 5-97/SC110-STD, dated February 10, 1997. This RTCM document is incorporated by reference in accordance with 5 U.S.C. 552(a), and 1 CFR Part 51. Copies of the document are available and may be obtained from the Radio Technical Commission on Aeronautics, One McPherson Square, 1425 K Street NW., Washington, DC 20005. The document is available for inspection at Commission headquarters at 445 12th Street, Washington, DC 20554. Copies may also be inspected at the Office of the Federal Register, 800 North Capital Street NW., Suite 700, Washington, DC.

(b) The 406.025 MHz PLB must contain, as an integral part, a homing beacon operating only on 121.500 MHz that meets all the requirements described in the RTCM Recommended Standards document described in paragraph (a) of this section. The 121.500 MHz homing beacon must have a continuous duty cycle that may be interrupted only during the transmission of the 406.025 MHz signal.

(c) Before a 406.025 MHz PLB certification application is submitted to the Commission, the applicant must have obtained certification from a test facility, recognized by one of the COSPAS/ SARSAT Partners, that the PLB satisfies the standards contained in the COSPAS/SARSAT document COSPAS/SARSAT 406 MHz Distress Beacon Type Approval Standard (C/S T.007).

(d) The procedures for obtaining a grant of notification of certification from the Commission are contained in Subpart J of Part 2 of this chapter.

(e) An identification code, issued by the National Oceanic and Atmospheric Administration (NOAA), the United States Program Manager for the 406.025 MHz COSPAS/SARSAT satellite system, must be programmed in each PLB unit to establish a unique identification for each PLB station. With each marketable PLB unit, the manufacturer or grantee must include a postage pre-paid registration card printed with the PLB identification code addressed to: NOAA/NESDIS, SARSAT Operations Division, E/SP3, Federal Building 4, Washington, DC 20233. The registration card must request the owner's name, address, telephone number, alternate emergency contact and include the following statement: "WARNING—failure to register this PLB with NOAA could result in a monetary forfeiture order being issued to the owner."

(f) To enhance protection of life and property it is mandatory that each 406.025 MHz PLB be registered with NOAA and that information be kept up-to-date. In addition to the identification plate or label requirements contained in §§ 2.925 and 2.926 of this chapter, each 406.025 MHz PLB must be provided on the outside with a clearly discernable permanent plate or label containing the following statement: "The owner of this 406.025 MHz PLB must register the NOAA identification code contained on this label with the National Oceanic and Atmospheric Administration (NOAA) whose address is: NOAA, NOAA/SARSAT Operations Division, E/ SP3, Federal Building 4, Washington, D.C. 20233." Owners shall advise NOAA in writing upon change of PLB ownership, or any other change in registration information. NOAA will provide registrants with proof of registration and change of registration postcards.

(g) For 406.025 MHz PLBs with identification codes that can be changed after manufacture, the identification code shown on the plate or label must be easily replaceable using commonly available tools.